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BULLETIN No. 1

State of Connecticut

Workmen's Compensation



Bulletin of Preliminary Information

ISSUED BY

THE BOARD OF COMMISSIONERS

NOVEMBER, 1913

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PUBLICATION
APPROVED BY
THE BOARD OF CONTROL

PRESS OF
SAMUEL Z. FIELD
NEW HAVEN



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PREFATORY NOTE.

This bulletin furnishes to those subject to the Workmen's Compensation Act such information in brief and simple form as will enable them to take intelligent action in view of its provisions. The general terms of the compensation under the Act, the approximate cost to the employer, the methods of furnishing surety to cover the liability under the Act, the classes of employment affected, and the necessary forms of procedure for registering a choice between its alternative parts, are elementary features with which employers and employees should at once become familiar.

The interpretations of the Act herein contained, which are published at this time for the convenience of the public, represent only the tentative opinions of the Board of Commissioners and are subject to modification. It will be recognized that the Board and the several Commissioners should, in fairness to all parties concerned, decide questions only as they arise and after the parties to the particular controversies have been fully heard.

An Act Concerning Compensation to Workmen Injured in the Course of their Employment

(Chapter 138 of the Public Acts of 1913)

Effective January 1, 1914

The Administration of the Act. This is vested in five Commissioners, one for each Congressional District. Communications should be addressed to the Compensation Commissioner of the District in which the claims and questions arise. Issues arising under the Act are tried before the Commissioner, but an appeal lies from his decision to the Superior Court.

The names and addresses of the Commissioners are as follows:

FIRST DISTRICT (Hartford County). Commissioner, GEORGE B. CHANDLER, 209 Pearl street, Hartford.

SECOND DISTRICT (Tolland, Windham, New London and Middlesex Counties). Commissioner, DR. JAMES J. DONOHUE, 748 Main street, Willimantic.

THIRD DISTRICT (All of New Haven County, *except* the towns of Southbury, Middlebury, Waterbury, Wolcott, Oxford, Naugatuck, Prospect, Beason Falls, Seymour, Ansonia and Derby). Commissioner, TALCOTT H. RUSSELL, 42 Church street, New Haven.

FOURTH DISTRICT (Fairfield County). Commissioner, EDWARD T. BUCKINGHAM, 1024 Main street, Bridgeport.

FIFTH DISTRICT (All of Litchfield County and the following towns in New Haven County: Southbury, Middlebury, Waterbury, Wolcott, Oxford, Naugatuck, Prospect, Beacon Falls, Ansonia, Seymour and Derby). Commissioner, FREDERIC M. WILLIAMS, Lilley Building, Waterbury.

The General Plan of the Act. The Act consists of three parts, Part A, Part B and Part C. Part C has to do with the organization of mutual insurance companies, and for the purposes of this bulletin may be disregarded. Part A is a modification of the present law governing employers' liability. Part B comprises the new compensation plan. Every employer and employee has the power of choice between these two parts, under the conditions and with the results hereinafter explained.

Employers of Less than Five Persons. A general impression has existed that employers of less than five persons are exempt from the provisions of the Act. According to the opinion of the Attorney-General, such is not the case. Every party to a contract of employment, irrespective of the number of persons in the employer's service, falls automatically under the provisions of Part B unless notice of refusal to accept the Act is served upon the Commissioner of the District and the other party to the contract, or appears in the contract of service. If notice of refusal is thus served by either party, the present legal relation of employer to employee remains unchanged and suits may be brought and defended, as in the past, under the existing law governing liability for personal injuries.

Employers of Five or More Persons. Every contract of employment in this class falls automatically under Part B, with the option to the employer and employee of choosing the following alternatives:

(a) **The Employer's Alternative.** Any employer of this class may come under Part A by notifying the Commissioner of the District and the employee of his refusal to accept the provisions of Part B; but, if he does so, he is subject to action by the employee, in case of injury through the fault of the employer, under the provisions of Part A with the common law defenses of contributory negligence, negligence of fellow servant and assumed risk taken away.

(b) **The Employee's Alternative.** Any employee of this class may come under Part A by serving like notice upon the Commissioner and his employer; but, if he does so, action must be brought against his employer, in case of injury or death, with the foregoing common law defenses still in force.

In other words, either party to the contract may prevent the application of the compensation features of the Act and thus leave the rights of the parties as they now are and subject to be adjusted in an ordinary common law suit, with this important exception, viz: If the rejection of the compensation features of the Act is by the employer, the common law defenses above referred to (contributory negligence, negligence of fellow servant and assumed risk) are taken away from him; if, however, the rejection is by the employee, those common law defenses remain in full force.

Jurisdiction of Commissioners. Each Commissioner has jurisdictions of claims and questions arising in his District. All notices and reports are to be filed in the office of the Commissioner of the District where the employee is employed. Where an employer of labor in several Districts applies for a certificate of financial ability to pay compensation direct, his application is to be filed in each District. Proofs or documents offered by him in support of such application may be filed in any such District, notice of such filing being sent by him to the Commissioners in such other Districts.

Refusal to Accept Part B by Stipulation in the Contract of Employment. Section 2 of Part B of the Act provides that either employer or employee may refuse to accept the compensation plan (Part B) by inserting a written stipulation in the contract of employment that such employer or employee refuses to accept Part B of the Act. In drawing contracts of employment with this end in view the terms of this section, which will be found in the appendix to this bulletin, should be carefully followed. Any contract, however, must comply with Section 33 of Part B of the Act.

THE GENERAL PROVISIONS OF PART B.

The Compensation Feature.

A careful study of the main features of Part B is recommended. They are substantially as follows:

The Terms of Compensation.

(a) The employer is to furnish the injured employee, at his own expense, the necessary medical and surgical attention, including hospital service, for a period of thirty days after the injury. This is in addition to the weekly compensation. (Part B, Sec. 7).

(b) In case of injuries resulting in death at any time within two years after the injury, the compensation may be one-half of the average weekly wage of the employee at the time of the accident, payable for a period of 312 weeks after death, and, in addition, \$100 for burial expenses; but in no case shall such compensation be more than \$10 or less than \$5 a week. Therefore, in the ordinary case where persons are left who were totally dependent upon the employee, the maximum and minimum costs to the employer in cases of fatal injury are \$3,220 and \$1,600 respectively, plus the cost of medical, surgical and hospital services for thirty days. (Part B, Sec. 9).

(c) In case the employee is totally incapacitated to perform work of any character, his weekly compensation during incapacity is one-half of his average weekly earnings at the time he was injured; but in no case shall the compensation continue for more than 520 weeks, nor shall it be more than \$10 or less than \$5 a week. The maximum cost, therefore, to the employer in any case of total incapacity is \$5,200, plus medical, in any case of total incapacity is \$5,200, plus medical

There are six specified injuries which, by the express terms of the Act, constitute total incapacity, irrespec-

tive of the earning power of the injured party after the accident. (Part B, Sec. 11). These injuries are as follows:

| Injury. | Weeks |
|--|-------|
| (1) Total and permanent loss of sight in both eyes | 520 |
| (2) The loss of both feet at or above the ankle | 520 |
| (3) The loss of both hands at or above the wrist | 520 |
| (4) The loss of one foot at or above the ankle and one hand at or above the wrist | 520 |
| (5) Any injury resulting in incurable imbecility or insanity | 520 |
| (6) Any injury resulting in permanent and complete paralysis of the legs or arms or of one leg and one arm | 520 |
| (d) In case the injury results only in partial incapacity, the compensation, which cannot exceed \$10 per week and cannot extend beyond 312 weeks, is to be one-half the difference between what the workman was earning on the average before the accident and what he is able to earn after it. For example, if his average weekly wage before the accident was \$15, and he is able to earn \$10 a week after his injury, his compensation will be \$2.50 a week. | |

There are certain specific injuries (Part B, Sec. 12) for which one-half the average weekly wage must be paid for an arbitrary number of weeks, regardless of the earning capacity of the injured party after the accident. These are as follows:

| Injury. | Weeks |
|---|-------|
| (1) Loss of one arm at or above the elbow, or complete and permanent loss of the use of one arm | 208 |
| (2) Loss of one leg at or above the knee, or complete and permanent loss of the use of one leg | 182 |
| (3) Loss of one hand at or above the wrist, or complete and permanent loss of the use of one hand | 156 |

| | |
|--|-----|
| (4) Complete and permanent loss of hearing in both ears | 156 |
| (5) Loss of one foot at or above the ankle or the complete and permanent loss of the use of one foot | 130 |
| (6) Complete and permanent loss of sight in one eye | 104 |
| (7) Complete and permanent loss of hearing in one ear | 52 |
| (8) Loss of a thumb | 38 |
| (9) Loss of a first finger or a great toe | 38 |
| (10) Loss of a second finger | 30 |
| (11) Loss of a third finger | 25 |
| (12) Loss of a fourth finger | 20 |
| (13) Loss of one phalange of a thumb | 19 |
| (14) Loss of two phalanges of a first finger ... | 19 |
| (15) Loss of two phalanges of a second finger.. | 15 |
| (16) Loss of two phalanges of a third finger .. | 12½ |
| (17) Loss of any toe except the great toe | 13 |
| (18) Loss of two phalanges of a fourth finger.. | 10 |

(e) No weekly compensation is payable for any injury that does not incapacitate the workman for two weeks; and, if he is incapacitated for longer than that period, compensation begins on the 15th day after the injury. (Part B, Sec. 8).

(f) Injuries due to wilful and serious misconduct or intoxication are excluded from compensation.

THE INSURANCE OF LIABILITY FOR CLAIMS.

The adequate insurance of claims is a matter of primary importance. Provision for this is made in Sec. 30 of Part B, and elsewhere. There are four ways in which this may be done:

1st. The employer need not insure at all, in which event he must furnish to the Compensation Commissioner satisfactory evidence of his financial ability to meet claims under the Act. Or,

2d. The employer may file with the Insurance Commissioner, inform acceptable to him, security guaranteeing the performance of the obligations of the Act. Or,

3d. He may insure his full liability in any mutual or stock company authorized by the Insurance Commissioner to do business in the State under the terms of Act. Or,

4th. With the approval of the Insurance Commissioner, he may establish some form of private agreement with his employees, providing a substitute system of insurance.

The fourth method outlined above, authorized by Sec. 29 of Part B of the Act, is substantially that in use by some of the larger corporations of the State. Insurance plans of this kind must meet with the approval of the Insurance Commissioner and call for contribution from the employer at least equal to that which he would be obliged to make by direct payments in accordance with the terms of the Act.

The second method calls for the filing of a bond with proper surety, or security in some equivalent form, guaranteeing the performance of the employer's obligations under the Act, such bond or security to be approved by the Insurance Commissioner.

The third method is the system of liability insurance, modified to meet the provisions of this Act. If the policy is in a company or association authorized to do such business in this State and it is written in the form to cover the liability under the Act, no further investigation, will, in general, be required.

The first method, by which the employer does not insure, calls for the presentation of proof of solvency and financial ability satisfactory to the Compensation Commissioner. The scope of the proof must depend to some extent upon the circumstances of the individual case. It may involve an audit of books at the expense of the employer, and the production of such other evidence as may be required to satisfy the Commissioner that the employer will be able to respond to his obligations, and is of such solvency that he will continue of this ability over such period of time as the weekly compensation may continue payable. As an aid to this investigation, the Commissioner will, where practicable, receive, at the expense of the employer, reports of recognized commercial agencies, together with any other evidence that bears upon the questions at issue. While it is the intention of the Commissioner to avoid making these investigations any more onerous than the necessities of the case require,, it must be remembered that, as the employee cannot begin his proceeding by an attachment, the investigation must be a real one, and the results must be such as to justify the Commissioner in passing the employer as solvent and able to respond to the demands of the Act. In case of an apparent change in the financial condition of the employer, the Commissioner may make such additional investigation and order as may be necessary to protect the employee.

FORMS.

For Distribution in the Office of Town Clerks.

The following are the important forms that will be regularly used in conformity with the express provisions of the Act. They are to be *deposited in the offices of the Town Clerks*, for distribution. Service by these forms should be by *personal presentation* or *registered mail*.

- Form No. 1. For Notice of Refusal to Accept Part B by Employer.
(to be served upon the Commissioner.)
- Form No. 2. For Notice of Refusal to Accept Part B by Employee
(to be served upon the Commissioner.)
- Form No. 3. For Notice of Refusal to Accept Part B by Employer.
(to be served by employer upon employee.)
- Form No. 4. For Notice of Refusal to Accept Part B by Employee.
(to be served by employee upon employer.)
- Form No. 5. For Notice of Withdrawal of Acceptance of Part B by Employer.
(to be served upon the Commissioner.)
- Form No. 6. For Notice of Withdrawal of Acceptance of Part B by Employee.
(to be served upon the Commissioner.)
- Form No. 7. For Notice of Withdrawal of Acceptance of Part B by Employer.
(to be served by employer upon employee.)
- Form No. 8. For Notice of Withdrawal of Acceptance of Part B by Employee.
(to be served by employee upon employer.)

- Form No. 9. **For Notice of Injury.**
(to be served by employee upon employer.)
- Form No. 10. **For Notice to Employer in Case of Death.**
(to be served by dependent, executor or administrator upon employer.)
- Form No. 11. **For Agreement in Regard to Compensation between Employer and Employee.**
(not effective until approved by the Commissioner.)
- Form No. 12. **For Agreement in Case of Injuries Resulting in Death.**
(not effective until approved by the Commissioner.)
- Form No. 13. **For Notice From Employer of Failure to Agree in Regard to Compensation.**
(to be served upon the Commissioner.)
- Form No. 14. **For Notice from Employee of Failure to Agree in Regard to Compensation.**
(to be served upon the Commissioner.)
- Form No. 15. **Forms for Weekly Report of Accidents and Claims.**
(to be made to the Commissioner.)

SUPPLEMENTARY FORMS.

Not. in the Offices of the Town Clerks.

Original Acceptance of Part B by Written Notice. While Section 2 of Part B provides that all persons in the relation of employer and employee are presumed to have accepted Part B of the Act, unless they in writing give notice to each other and to the Commissioner of their refusal to accept, there may be those desiring to accept in writing in order that their status under the Act may be a matter of record, and that no dispute may arise as to what such status is. For the convenience of any desiring to take this course, the Commission has prepared Supplementary Forms A, B, C, and D, which are published for general information.

Renewal of Acceptance of Part B. Forms A and C, or B and D, are also regular and proper for serving notice of renewals. The Act provides that where either party to a contract of employment has withdrawn from Part B by notice served by Forms 5 and 7, or 6 and 8, he may subsequently renew his acceptance of Part B and again come under the compensation features of the Act by serving proper notice to that effect, such renewal to become effective after *thirty days from date of notice*. Although it does not appear to be expressly provided in terms, it is probably implied that any refusal to accept Part B effected by Forms 1 and 3, or 2 and 4, may also be reconsidered and acceptance of Part B subsequently made by the same procedure as in the case of a renewal after withdrawal.

As it is probable that the demand for forms for these purposes in the immediate future will be slight, it has been deemed wise, in order to avoid confusion in the period of preparation for the Act, to defer distributing them in the offices of the Town Clerks until some later date.

Form A.

FORM OF ACCEPTANCE OF PART B.

EMPLOYER TO COMMISSIONER.

To the Compensation Commissioner for the
Congressional District of the State of Connecticut at
.....: Notice is hereby given that the under-
signed, an employer, having regularly employees,
of, Connecticut, and
(give town, street and street number)

engaged in the business of
elects to accept the provisions of "An Act Concerning Compen-
sation to Workmen Injured in the Course of Their Employment"
(Chap. 138, Pub. Acts, 1913).

Dated at this day of

191.....

Witnessed by
.....

.....
(two witnesses should sign)

NOTE—If the employer using this form is a corporation, state under the laws of what state it is incorporated, and if the form is used by either a corporation or partnership, give the name of the officers or partners and the official position of the person signing the same. Any of the forms to be used as between employer and employee may be served by personal presentation or by registered mail.

FORM OF ACCEPTANCE OF PART B.

EMPLOYEE TO COMMISSIONER.

To the Compensation Commissioner for the
Congressional District of the State of Connecticut at
.....: Notice is hereby given that the under-
signed, an employee of
(name of employer)
of, and engaged in the
(address of employer)
occupation of elects
(state trade or occupation of employee)
to accept the provisions of Part B of "An Act Concerning Com-
pensation to Workmen Injured in the Course of Their Employ-
ment" (Chap. 138, Pub. Acts, 1913).

Dated at this day of
191.....

(signature of employee)

(address)

My living parents are _____
and _____
Address _____

(name of minor)

(address)
By _____ Parent
By _____ Parent
By _____ Guardian
(parent or guardian must sign)

(address of signer)

=====

NOTE—This notice should be served upon the Commissioner by personal presentation or by registered mail.

Form C.

FORM OF ACCEPTANCE OF PART B.

EMPLOYER TO EMPLOYEE.

To _____ of _____
(name of employee) (address of employee)

Notice is hereby given that the undersigned elects to accept the provisions of Part B of "An Act Concerning Compensation to Workmen Injured in the Course of Their Employment." (Chapter 138, Pub. Acts, 1913).

Dated at _____ this _____ day of _____

191_____

Witnessed by _____

(two witnesses should sign)

NOTE—If the employer using this form is a corporation, state under the laws of what state it is incorporated, and if the form is used by either a corporation or partnership, give the name of the officers or partners and the official position of the person signing the same. Any of the forms to be used as between employer and employee may be served by personal presentation or by registered mail.

FORM OF ACCEPTANCE OF PART B.

EMPLOYEE TO EMPLOYER.

To _____ of _____
(name of employer) (address of employer)

Notice is hereby given that the undersigned elects to accept the provisions of Part B of "An Act Concerning Compensation to Workmen Injured in the Course of Their Employment." (Chapter 138, Pub. Acts, 1913).

Dated at _____ this _____ day of _____
191_____

To be used when
employee is an
adult, or a minor
without living
parent or guar-
dian.

(signature of employee)

(address)

My living parents are _____
_____ and _____
Address _____

(name of minor)

(address of minor)

By _____ Parent

By _____ Parent

By _____ Guardian
(parent or guardian must sign)

(address of signer)

To be used only
when employee
is a minor with
living parent or
guardian.

Witnessed by

(two witnesses should sign)

NOTE—This notice should be served upon the employer by personal presentation or by registered mail. The party receiving the same should endorse on it the date it is received and the person serving it should preserve a copy showing date and manner of service.

Appeals. For the convenience of persons desiring to appeal from a decision of a Commissioner, the following form is suggested as one which it is believed complies with the provisions of the "Compensation Act" governing appeals.

Form E.

FORM OF APPEAL.

| | | |
|----------------|---|-------------------------|
| of | } | Superior Court, |
| Claimant | | |
| v. | |County |
| of | } | 1st Tuesday of191 |
| Respondent | | |

The above entitled matter came before the Compensation Commissioner for the Congressional District and was duly heard by him.

On the day of 191, said Commissioner made his finding and award therein and filed the same in this Court.

Now, therefore, the undersigned claimant (or respondent), herein, does hereby appeal from said finding and award to the Superior Court to be held at..... in and for the County of on the first Tuesday of 191.....

Dated at this day of
.....191.....

.....
Claimant.

.....
Respondent.

REPORTS, SETTLEMENTS AND PROCEDURE.

Weekly Reports of Accidents. Every employer who has accepted Part B must keep a record of all accidents incapacitating the injured party for one day or more and report the same weekly to the Commissioner of his District. If the employer so reporting has heretofore made similar reports to the Factory Inspector, the reports to the Commissioner take the place of those formerly made to the Factory Inspector. All who have refused to come under Part B, and who have heretofore reported to the Factory Inspector, must continue to make reports to him as in the past.

Settlements. Not earlier than two weeks after the date of the injury, settlement may be made by agreement between employer and employee, in accordance with the terms of the Act and subject to the approval of the Commissioner; but such settlement may be subsequently modified with the approval of the Commissioner.

Procedure and Costs. In hearings before a Commissioner, there are no formal pleadings, and parties may appear in person or by agent or attorney, as they see fit. Each party must bear the expenses incident to the attendance of his own witnesses. No costs may be charged against the other party. Medical fees and attorneys' fees are subject to the approval of the Commissioner, and in the former case the charges shall not exceed those customary in the same locality for persons of like standard of living.

Rules. As the Act contemplates an informal procedure without technical pleading, the Commissioners do not deem it wise, at the present time at least, to issue rules of procedure, which in most cases would be mere paraphrases of the Act. It is believed that, if experience shows that rules other than those appearing expressly in the Act should be promulgated, they can be drawn more intelligently when based upon the rulings and experience of the Commissioners arising from their administration of its provisions in the light of specific cases.

Further Bulletins. The preparation of this bulletin has been an attempt to furnish a general answer to the numerous questions which have been asked the Commissioners since the announcement of their appointment. If subsequent inquiries reveal the need of added information of a similar nature, bulletins will be issued in response to the same.

Board of Commissioners,

TALCOTT H. RUSSELL, *Chairman.*

EDWARD T. BUCKINGHAM, *Secretary.*

GEORGE B. CHANDLER,

DR. JAMES J. DONOHUE,

FREDERIC M. WILLIAMS.

APPENDIX

An Act Concerning Compensation to Workmen Injured in the Course of their Employment

*Be it enacted by the Senate and House of Representatives in
General Assembly convened:*

PART A. EMPLOYERS' LIABILITY.

SECTION 1. Defenses Abolished. In an action to recover damages for personal injury sustained by an employee arising out of and in the course of his employment, or for death resulting from injury so sustained, it shall not be a defense: (a) That the injured employee was negligent; (b) that the injury was caused by the negligence of a fellow employee; (c) that the injured employee had assumed the risk of injury.

SEC. 2. Scope of Part A. The provisions of Section one of part A of this act shall not apply to actions to recover damages for personal injuries sustained by employees of any employer having regularly less than five employees, by casual employees, or by outworkers; nor shall the same provisions apply to actions against any employer who shall have accepted part B of this act in the manner hereinafter prescribed.

PART B. WORKMEN'S COMPENSATION.

SECTION 1. Acceptance of Part B. When any persons in the mutual relation of employer and employee shall have accepted part B of this act, the employer shall not be liable to any action for damages on account of personal injury sustained by an employee arising out of and in the course of his employment or on account of death resulting from injury so sustained; but

the employer shall pay compensation on account of such injury in accordance with the scale hereinafter provided, except that no compensation shall be paid when the injury shall have been caused by the willful and serious misconduct of the injured employee or by his intoxication. The acceptance of part B of this act by employers and employees shall be understood to include the mutual renunciation and waiver of all rights and claims arising out of injuries sustained in the course of employment as aforesaid, other than rights and claims given by part B of this act, including the right of jury trial on all questions affecting compensation and all right of appeal from the compensation commissioners except as hereinafter established.

SEC. 2. Acceptance Presumed. Every contract of employment not made before the date of this act shall be conclusively presumed to include a mutual agreement between employer and employee to accept part B of this act and be bound thereby, unless either employer or employee shall by written stipulation in the contract, or by such other notice as is prescribed in Section three of part B, indicate his refusal to accept the provisions of said part B. Every contract of employment made before the date of this act and continued in force after said date shall be conclusively presumed to include a mutual agreement between employer and employee to accept part B of this act and be bound thereby, unless by the date at which this act goes into effect either employer or employee has indicated his refusal to accept said part B in the manner prescribed in Section three of said part B.

SEC. 3. Manner of Acceptance and Withdrawal. Acceptance of part B of this act may be withdrawn by written or printed notice from either employer or employee to the other party and to the compensation commissioner of the district in which the employee is employed. Notice of withdrawal may be served by personal presentation or by registered letter addressed to the person on whom it is to be served at his last known residence or place of business, and such notice shall become effective thirty days after service. Either employer or employee who has withdrawn acceptance may renew the same by the same notice and procedure as is prescribed for withdrawals. Notices in behalf of a minor shall be given by his parent or guardian, or, if there be no parent or guardian, then by such minor.

SEC. 4. Effect of Non-Acceptance. Every employer not accepting part B of this act shall be liable to action for damages on account of personal injury to his employees in accordance with the provisions of part A of this act, and every employee

not accepting part B of this act shall lose all rights and benefits of part A of this act with reference to any employer who continues to accept said part B.

SEC. 5. Principal Employer, Contractor, and Sub-Contractor. When any principal employer procures any work to be done, wholly or in part for him, by a contractor, or through him by a sub-contractor, and the work so procured to be done is a part or process in the trade or business of such principal employer, and is performed in, on, or about premises under his control, then such principal employer shall be liable to pay all compensation under this act to the same extent as if the work were done without the intervention of such contractor or sub-contractor.

SEC. 6. Liability of Third Persons. When any injury for which compensation is payable under this act shall have been sustained under circumstances creating in some other person than the employer a legal liability to pay damages in respect thereto, the injured employee may, at his option, either claim compensation under this act or proceed at law against such other person to recover damages; and, if compensation is claimed and paid under this act, any employer having paid the compensation shall be subrogated to the rights of the injured employee to recover against that person, provided if the employer shall recover from such other person damages in excess of the compensation already paid, or awarded to be paid under this act, then any such excess shall be paid to the injured employee, less the employer's expenses and costs of action.

SEC. 7. Medical and Surgical Care. The employer shall provide a competent physician or surgeon to attend any injured employee during the thirty days immediately following the injury, as such injury may require, and in addition shall furnish such medical and surgical aid or hospital service, during such thirty days as such physician or surgeon shall deem reasonable or necessary. In the event of the failure of the employer promptly to provide such physician or surgeon or such medical or surgical or hospital service, during any portion of such thirty days, the injured employee may provide such physician or surgeon or medical or surgical or hospital services at the expense of the employer. Or, at his option, the injured employee may refuse the medical, surgical, and hospital service provided by his employer and provide the same at his own expense. If it shall appear to the commissioner that an injured employee has refused to accept and failed to provide such reasonable medical, surgical, or hospital care, all rights of compensation under this act shall be suspended during such refusal and failure. The

pecuniary liability of the employer for the medical, surgical, and hospital service herein required shall be limited to such charges as prevail in the same community for similar treatment of injured persons of a like standard of living when such treatment is paid for by the injured persons.

SEC. 8. Waiting Period. No compensation shall be payable under this act on account of any injury which does not incapacitate the injured employee for a period of more than two weeks from earning full wages at his customary employment; but if incapacity extends beyond a period of two weeks compensation shall begin on the fifteenth day after the injury.

SEC. 9. Compensation for Fatal Injuries. Compensation shall be paid on account of death resulting from injuries within two years from date of injury as follows: (a) For burial expenses one hundred dollars; (b) to those totally dependent upon the deceased employee at the time of his injury a weekly compensation equal to half of the average weekly earnings of the deceased at the time of his injury; (c) in case there is no one totally dependent upon the deceased employee then to those partially dependent upon the deceased employee at the time of his injury a weekly compensation not exceeding that payable to total dependents and of such proportionate sum as may be determined according to the measure of dependence; (d) in case there are no dependents of the deceased employee the sum of seven hundred and fifty dollars, to be paid to the state treasurer and by him set apart as a fund to be used for the payment of lawful expenses of the commissioners; but the compensation payable on account of death resulting from injuries shall in no case be more than ten dollars or less than five dollars weekly, and such compensation shall not continue longer than three hundred and twelve weeks after death. The compensation on account of death payable under this act to a widow or widower of a deceased employee shall not cease with the death of such widow or widower, but upon his or her death within the period during which such compensation is payable it shall continue to be paid for the remainder of such period to her or his dependents as defined in Section forty-three.

SEC. 10. Meaning of Dependence. The following persons shall be conclusively presumed to be totally dependent for support upon a deceased employee: (a) A wife upon a husband with whom she lives at the time of his injury or from whom she receives support regularly; (b) a husband upon a wife with whom he lives at the time of her injury or from whom he receives support regularly; (c) a child or children under the age of eighteen years, or over said age but physically or mentally incapac-

tated from earning, upon the parent with whom he is or they are living or from whom he is or they are receiving support regularly at the time of the injury of such parent, there being no surviving dependent parent. In case there is more than one child thus dependent the death benefit shall be divided equally among them. In all other cases questions of dependency, total or partial, shall be determined in accordance with the fact, as the fact may be at the time of the injury. In such other cases, if there is more than one person totally dependent, the death benefit shall be divided equally among them, and persons partially dependent, of any, shall receive no part thereof. If there is no person totally dependent and more than one person partially dependent, the death benefit shall be divided among them according to the relative degrees of their dependence. For the purposes of this act the dependence of a widow or widower of a deceased employee shall be construed to terminate with remarriage and the dependence of a child, except a child physically or mentally incapacitated from earning, with the attainment of eighteen years. Compensation under this section shall be paid to alien dependents in half the amounts indicated in this section unless such alien dependents are residents of the United States, or its dependencies, or Canada.

SEC. 11. Compensation for Total Incapacity. In case the injury results in total incapacity to perform work of any character, there shall be paid to the injured employee a weekly compensation equal to half of his average weekly earnings at the time of the injury; but the compensation shall in no case be more than ten dollars or less than five dollars weekly; and such compensation shall not continue longer than the period of total incapacity, or in any event longer than five hundred and twenty weeks. The following injuries of any person shall be considered as causing total incapacity and compensation shall be paid accordingly; (a) Total and permanent loss of sight in both eyes; (b) the loss of both feet at or above the ankle; (c) the loss of both hands at or above the wrist; (d) the loss of one foot at or above the ankle and one hand at or above the wrist; (e) any injury resulting in permanent and complete paralysis of the legs or arms or of one leg and one arm; (f) any injury resulting in incurable imbecility or insanity.

SEC. 12. Compensation for Partial Incapacity. In case the injury results in partial incapacity, there shall be paid to the injured employee a weekly compensation equal to half the difference between his average weekly earnings before the injury and what he is able to earn thereafter. This compensation shall in no case be more than ten dollars weekly and shall continue during the period of partial incapacity, but not longer than three

hundred and twelve weeks. If the employer procures for an injured employee employment suitable to his capacity the wages offered in such employment shall be taken as the earning capacity of the injured employee. In case of the following injuries the compensation, in lieu of all other payments, shall be half of the previous average weekly earnings of the injured employee for the terms respectively indicated: (a) For the loss of one arm at or above the elbow, or the complete and permanent loss of the use of one arm, two hundred and eight weeks; (b) for the loss of one hand at or above the wrist, or the complete and permanent loss of the use of one hand, one hundred and fifty six weeks; (c) for the loss of one leg at or above the knee, or the complete and permanent loss of the use of one leg, one hundred and eighty-two weeks; (d) for the loss of one foot at or above the ankle, or the complete and permanent loss of the use of one foot, one hundred and thirty weeks; (e) for the complete and permanent loss of hearing in both ears, one hundred and fifty-six weeks; (f) for the complete and permanent loss of hearing in one ear, fifty-two weeks; (g) for the complete and permanent loss of sight in one eye, one hundred and four weeks; (h) for the loss of a thumb, thirty-eight weeks; (i) for the loss of a first finger or a great toe, thirty-eight weeks; (j) for the loss of a second finger, thirty weeks; a third finger, twenty-five weeks; a fourth finger, twenty weeks; (k) for the loss of any toe except the great toe, thirteen weeks. The loss of one phalange of a thumb or two phalanges of a finger shall be considered half the loss of a thumb or finger respectively, and shall be compensated accordingly.

SEC. 13. Average Weekly Earnings. For the purpose of this act, the average weekly wage shall be ascertained by dividing the total wages received by the injured workman from the employer in whose service he is injured during the twenty-six calendar weeks immediately preceeding that during which he was injured, by the number of said calendar weeks during which, or any portion of which, said workman was actually employed by said employer, provided in making such computation absence for seven consecutive calendar days, although not in the same calendar week, shall be considered as absence for a calendar week. Where the employment commenced other than at the beginning of a calendar week, such calendar week and the wages earned during such week, shall be excluded in making the above computation. Where the employment previous to injury as provided above is computed to be less than a net period of two calendar weeks, then his weekly wage shall be considered to be equivalent to the average weekly wage prevailing in the same or similar employment in the same locality at the time of injury.

SEC. 14. Allowance for Advance Payments. In fixing the amount of compensation under this act due allowance shall be made for any sum which the employer may have paid to any injured employee or to his dependents on account of the injury, except such sums as the employer may have expended or directed to be expended for medical, surgical, or hospital service.

SEC. 15. Revision of Awards. Any award of compensation made under this act shall be subject to modification, upon the request of either party and in accordance with the procedure for original determinations, whenever it shall appear to the compensation commissioner or commission that the incapacity of an injured employee has increased, decreased, or ceased, or that the measure of dependence on account of which the compensation is paid has changed.

SEC. 16. Appointment and Term of Compensation Commissioners. Within ninety days after the passage of this act the governor shall appoint five competent persons, one for each of the five congressional districts as at present constituted, to be known as compensation commissioners, and shall designate one of them as chairman. The term of office of the compensation commissioners shall be five years, except that when first appointed one shall be appointed for one year and three months from October 1, 1913, one for two years and three months from said date, one for three years and three months from said date, one for four years and three months from said date, and one for five years and three months from said date. Thereafter, upon the expiration of the term for which a commissioner is first appointed, his successor shall be appointed by the governor for the full term of five calendar years. After due notice and public hearing the governor may remove any commissioner for cause and the good of the public service. Said commissioners shall be sworn to a faithful performance of their duties. Vacancies occurring during a term shall be filled by the governor.

SEC. 17. Powers of Commissioners. Each commissioner shall, for the purposes of this act, have power to summon and examine under oath such witnesses, and may direct the production of, and examine or cause to be produced or examined, such books, records, vouchers, memoranda, documents, letters, contracts, or other papers in relation to any matter at issue as he may find proper, and shall have the same powers in reference thereto as are now vested in magistrates taking depositions. He shall have power to certify to official acts, and all powers necessary to enable him to perform the duties imposed upon him by this act. The commissioners shall reside in the districts for which they are severally appointed and each shall have jurisdiction of all claims and questions arising in such district under

part B of this act. The commissioner for the first congressional district shall maintain an office at some convenient location in the city of Hartford; the commissioner for the second district an office similarly located in the city of Willimantic; the commissioner for the third district, in the city of New Haven; the commissioner for the fourth district, in the city of Bridgeport; and the commissioner for the fifth district, in the city of Waterbury. Each commissioner shall keep his office open during reasonable business hours of every day except Sundays and legal holidays, but he shall have power to hear and decide cases at any other place within his district. In case a commissioner is disqualified or temporarily incapacitated from hearing any matter, he shall designate some other commissioner to hear and decide said matter and such other commissioner shall possess the same jurisdiction and power, for the purpose of such hearing, as such incapacitated or disqualified commissioner. The superior court, on application of a commissioner or the commission, or of the attorney-general, may enforce, by appropriate decree or process, any provision of this act or any proper order of a commissioner or the commission rendered in pursuance of any such provision.

SEC. 18. The Board of Commissioners. Acting together, the commissioners shall have power to adopt and change such common rules, procedure, and forms as they shall deem expedient for the purposes of this act. Annually the commissioners shall prepare and submit to the governor a report of their doings, including such recommendations as they shall think proper for the improvement of this act or its administration.

SEC. 19. Salaries and Expenses of Commissioners. Each of the commissioners shall receive a salary of four thousand dollars per annum, payable in equal monthly instalments, and in addition such allowance, not exceeding two thousand dollars a year, as may be approved by the comptroller for expenses incurred in the discharge of his duties.

SEC. 20. Reports of Accidents. Every employer who has accepted part B of this act shall keep a record of such injuries sustained by his employees in the course of their employment as result in incapacity for one day or more, and every such employer shall send each week to the commissioner such report of said injuries as the commission shall require, with such notices of claims for compensation as have been served upon him within one week, in conformity with the provisions of Section twenty-one. No other report of injuries to employees shall be required by any department or office of the state from such employers as have accepted part B, and copies of all reports of injuries received by a commissioner shall by him be transmitted to the factory inspector once in three months.

SEC. 21. Claims for Compensation. No proceedings for compensation under this act shall be maintained unless a written notice of the injury shall have been given to the employer by the injured employee or in his behalf within thirty days of the happening thereof, and during the continuance of the incapacity on account of which compensation is claimed, nor unless claim for compensation is made within one year from the date of the injury. Such notice shall state in ordinary language the date, place and nature of the injury, the name and address of the injured employee, and the person in whose interest compensation is claimed. Notices may be served in the same manner as notices of withdrawal from provisions of part B of this act; and, in cases of fatal injuries, notice may be served either by any one of the dependents under this act or by the legal representative of the deceased employee; but no want, defect, or inaccuracy of such notice and claim shall be a bar to the maintenance of proceedings unless the employer shall show that he was ignorant of the injury and was prejudiced by want, defect, or inaccuracy of notice. Upon satisfactory showing of such ignorance and prejudice, the employer shall receive allowance to the extent of such prejudice. Within one week after the receipt by an employer of such notice of injury and claim for compensation he shall report the substantial facts of said notice and claim to the commissioner.

SEC. 22. Voluntary Agreements. If an employer and an injured employee, or in case of fatal injury his legal representative, shall, not earlier than two weeks after the date of the injury, reach an agreement in regard to compensation, such agreement shall by the employer be submitted in writing to the commissioner with a statement of the time, place, and nature of the injury upon which it is based; and if said commissioner shall find said agreement to conform to the provisions of this act in every regard he shall so approve it. Every agreement thus approved shall be filed in the office of the clerk of the superior court for the county in which the injury occurred and a copy thereof shall be retained by the commissioner, and a copy of the same delivered to each of the parties and thereafter it shall be as binding upon both parties as an award by the commissioner. Such agreements shall be subject to subsequent modification as changed conditions may justify, but no modification shall be valid until approved and filed by the commissioner.

SEC. 23. Medical Examinations. At any time while claiming or receiving compensation, upon the reasonable request of the employer or at the direction of the commissioner, an injured employee shall submit himself to examination by a reputable practicing physician or surgeon provided and paid by the em-

ployer, with a view to a determination of the nature of the injury and the incapacity resultant therefrom. At any such examination the injured employee shall be allowed to secure the attendance of any reputable practicing physician or surgeon provided and paid by himself. The refusal of an injured employee thus to submit himself to a reasonable examination shall suspend his right to compensation during such refusal.

SEC. 24. Hearing of Claims. If an employer and his injured employee, or his legal representative, as the case may be, shall fail to reach an agreement in regard to compensation under this act, either party may notify the commissioner of the failure. Upon such notice, or upon other knowledge that an agreement has not been reached in a case in which compensation is claimed, the commissioner shall appoint an early hearing upon the matter, giving both parties due notice of time and place not less than ten days prior to the date appointed. Hearings shall be held, if practicable, in the town in the state in which the injured employee resides; and, if such place is not practicable, in such other convenient place as the commissioner may prescribe. Sufficient notice of such hearing may be given to the parties in interest by a brief written statement in ordinary terms of the date, place, and nature of the injury upon which the claim for compensation is based.

SEC. 25. Conduct of Hearings. Both parties may appear at any hearing, either in person or by attorney or other accredited representative, and no formal pleadings shall be required, beyond such formal notices as the commission may approve. In all cases and hearings under this act the commissioner shall proceed, so far as possible, in accordance with the rules of equity. He shall not be bound by the ordinary common law or statutory rules of evidence or procedure, but may make inquiry in such manner, through oral testimony or written and printed records, as is best calculated to ascertain the substantial rights of the parties and carry out justly the spirit of this act. No fees shall be taxed or charged to either party by the commissioner in connection with any hearing or other procedure, but the commissioner may and shall furnish at actual cost certified copies of any testimony, award, or other matter which may be of record in his office. Witnesses subpoenaed by the commissioner shall be allowed such fees and traveling expenses as are allowed in civil actions, to be paid by the party subpoenaing said witnesses.

SEC. 26. Awards of Commissioner. As soon as may be after the conclusion of any hearing the commissioner shall send to each party a written copy of his finding and award and shall file a third copy in his office. The original award shall be filed in

the office of the clerk of the superior court for the county in which the injury occurred. If no appeal from his decision is taken by either party within ten days thereafter said finding and award shall be final and may be enforced in the same manner as a judgment of the superior court. The superior court is hereby authorized to issue execution upon any uncontested or final award of a commissioner in the same manner as in cases of judgments rendered in the superior court.

SEC. 27. Appeals. At any time within ten days after entry of such finding and award by the commissioner either party may appeal therefrom to the superior court for the county in which the injury was sustained. The clerk of said court shall notify the adverse party of such appeal. No bond for prosecution shall be required on any such appeal unless property of the defendant is attached therein. Actions brought into the superior court under the provisions of this section shall be privileged in respect to their assignment for trial over all other actions except writs of habeas corpus and actions brought by or on behalf of the state, including informations on the relation of private individuals. No costs shall be taxed in favor of either party on any such appeal.

SEC. 28. Commutation into Lump Sum. Whenever he deems it just or necessary the commissioner may approve or direct the commutation of weekly compensations under this act into monthly or quarterly payments, or into a single lump sum. In any such case of commutation, a true equivalence of value shall be maintained, with due discount of sums payable in the future; and when commutation is made into a single lump sum, the commissioner may direct that it be paid into any savings bank, first company, or life insurance company which is authorized to do business within this state, to be held in trust for the beneficiary or beneficiaries under this act, and paid out in conformity with the provisions of this act.

SEC. 29. Substitute Systems of Compensation. With the approval of the state insurance commissioner any employer subject to the provisions of part B may enter into an agreement with his employees to provide a system of compensation, benefit, and insurance in lieu of the compensation and insurance provided by this act. No such substitute system shall be approved unless it confers benefits upon injured employees at least equivalent to the benefits provided by this act, nor shall any such substitute system be approved which contains an obligation of employees to join in it as a condition of employment, or which in that case does not contain equitable provision for the withdrawal of employees from it and the distribution of its assets. If any such system requires contributions from employees it shall not be ap-

proved unless it confers benefits in addition to those provided under this act at least commensurate with such contributions. The insurance commissioner, having given his approval of such substitute system, shall have over it all the jurisdiction given him by Chapter 186 of the public acts of 1909 over insurance companies. He may withdraw his approval upon reasonable notice to the employer and order a distribution of the assets, subject to the right of any party in interest to take an appeal to the superior court for Hartford county.

SEC. 30. Insurance of Compensation Liability. Every employer subject to part B who shall not furnish to the commissioner satisfactory proof of his solvency and financial ability to pay directly to injured employees or other beneficiaries the compensation provided by this act, shall insure his full liability under part B in one or both the following ways: (1) By filing with the insurance commissioner in form acceptable to him security guaranteeing the performance of the obligations of this act by said employer; or, (2) by insuring his full liability under part B of this act in such stock or mutual companies or associations as are or may be authorized to take such risks in this state, or by such combination of the above-mentioned two methods as he may choose, subject to the approval of the insurance commissioner.

SEC. 31. Requirements in Insurance Policies. Every policy insuring the payment of compensations under this act shall contain a clause to the effect that as between the employee and the insurer notice and knowledge of the occurrence of injury by the insured shall be deemed notice and knowledge by the insurer, that jurisdiction of the insured for the purpose of this act shall be jurisdiction of the insurer, and that the insurer shall in all things be bound by and subject to the findings, judgments, and awards rendered against such insured.

SEC. 32. Requirements in Insurance Policies. No policy of insurance against liability under part B of this act, except as provided in Section thirty, shall be made unless the same shall cover the entire liability of the employer thereunder and shall contain an agreement by the insurer that, in case the insured shall become insolvent or be discharged in bankruptcy during the period that the policy is in operation, or the compensation, or any part of it, is due and unpaid, or in case an execution upon a judgment for compensation is returned unsatisfied, an injured employee, or other person entitled to compensation under this act, may enforce his claim to compensation against the insurer to the same extent that the insured could have enforced his claim against such insurer had he paid compensation.

SEC. 33. Obligations not to be Evaded. No contract, expressed or implied, no rule, regulation, or other device, shall in any manner relieve any employer, in whole or in part, of any obligation created by this act, except as herein set forth.

SEC. 34. Action for Minors. When an employee affected by the provisions of this act, or any person entitled to compensation hereunder, shall be a minor, or mentally incompetent, his parent, or guardian duly appointed, may, on his behalf, perform any act or duty required or exercise any right conferred by this act with the same effect as if such person was legally capable to act in his own behalf and had so acted.

SEC. 35. Fees to be Approved. All fees of attorneys, physicians or other persons for service under this act shall be subject to the approval of the commissioner.

SEC. 36. Exemption and Preference of Compensations. All sums due for compensations under this act shall be exempt from levy, attachment, and execution and shall be nonassignable before or after award. The rights of compensation granted by this act shall have the same preference against the assets of an employer as may be allowed by law to a claim for unpaid wages.

SEC. 37. Payments of Compensation. Compensations payable under this act shall be paid at such particular times in the week and in such manner as the commissioner may order, and shall be paid directly to the persons entitled to receive them unless the commissioner, for good reasons, shall order payment to those entitled to act for such persons.

SEC. 38. Manner of Serving Notices. Any notice under this act required to be served upon employer, employee, or commissioner may be served in the manner prescribed in Section three of part B of this act, unless the circumstances of the case or the rules of the commission shall direct otherwise.

SEC. 39. Custody of Forms. The town clerks of the several towns are hereby authorized and directed to receive from the commission such blank forms as may be prepared for use under this act and to distribute the same to persons making proper application for them.

SEC. 40. Interstate Commerce. This act shall not affect the liability of employers to employees engaged in interstate or foreign commerce, for death or injury, in case the laws of the United

States provide for compensation or for liability for such death or injury.

SEC. 41. Previous Injuries and Actions. The provisions of this act shall not apply to injuries or actions brought on account of injuries sustained before January 1, 1914.

SEC. 42. Failure to Observe Act. Any employer who has accepted part B of this act and who thereafter fails to conform to any of the provisions of Section thirty of part B, shall thereby forfeit all benefits thereunder and shall be liable as if he had not accepted the same. Any such employer who shall fail to conform to any of the other provisions of part B shall be fined not more than one hundred dollars for each offense.

SEC. 43. Definitions. "Commissioner" shall mean that compensation commissioner, as constituted in this act, who has jurisdiction in the matter referred to in the context. "Commission" shall mean the five commissioners, or a majority of them, acting as a board. "Dependents" shall mean members of the injured employee's family or next of kin who were wholly or partly dependent upon the earnings of the employee at the time of the injury. "Employee" shall mean any person who has entered into or works under and contract of service or apprenticeship with an employer. "Employer" shall mean any natural person, corporation, firm, partnership, or joint stock association, the state, and any public corporation within the state using the services of another for pay; it includes also the legal representative of any such employer. Masculine terms include males, females, and legal persons. "Outworker" shall mean a person to whom articles or materials are given to be treated in any way on premises not under the control or management of the person who gave them out. As the natural interpretation of the context may require, singular terms may be taken to include the plural, and plural to include the singular.

SEC. 44. Unconstitutionality. In case any provision of this act shall be held by the courts to be unconstitutional and invalid, the invalidity of such provision shall not affect any other provision which can be given effect without the provision held invalid.

PART C. EMPLOYERS' MUTUAL INSURANCE.

SECTION 1. Mutual Associations Authorized. With the approval of the insurance commissioner, employers who have accepted the provisions of part B of this act and are bound to pay compensations to their employees thereunder, may associate

themselves in accordance with the law for the formation of corporations without capital stock, for the purpose of establishing and maintaining mutual associations to insure their liabilities under this act, but no such association shall be formed to include employers not in the same or similar trade or business, or in trades or businesses with substantially similar degrees of hazard of injury to employees.

SEC. 2. Approval by Insurance Commissioner. With a view to his approval, the insurance commissioner may require the incorporators of any such association to include in their proposed certificate of incorporation such lawful provisions for the regulation of the affairs of the association and the definition of its powers and the powers of its officers, directors, and incorporators as shall satisfy him that it is well designed and wisely adapted to its proposed purposes. When such a certificate, in form and substance acceptable to the insurance commissioner, has been approved by and filed with the secretary of the state, the incorporators shall forthwith cause copies thereof to be filed in the offices of the insurance commissioner and each of the compensation commissioners.

SEC. 3. Membership. Membership in such associations shall be limited to such employers as are subject to part B of this act, and each association shall have power, by appropriate by-laws, to provide for the admission, suspension, withdrawal, or expulsion of members.

SEC. 4. Control of Associations. Except as herein otherwise provided, such associations shall be subject to the same regulation and control as is or may be imposed by law upon other corporations or associations taking similar risks in this state, and over them the insurance commissioner shall have all the jurisdiction given him by Chapter 186 of the public acts of 1909 over insurance companies.

SEC. 5. Policies. No policies shall be issued by any such association until members in such numbers and with such numbers of employees as the insurance commissioner may decide will give a fair diffusion of risks shall have obligated themselves to take policies immediately upon their authorization, nor shall any policies be issued except such as the insurance commissioner shall have approved as conforming in all respects to the requirements of this act. Conformably to the provisions of Section thirty of part B of this act, policies may be issued covering claims only in excess of a certain amount. If at any time, by the retirement of members, reduction of numbers of employees, or other cause, the

membership of any association shall appear to the insurance commissioner no longer to afford a fair diffusion of risks, he may suspend or forbid the further issue of policies until the former conditions of the association have been restored.

SEC. 6. Officers and Voting. The affairs of all associations incorporated under this act shall be managed by such officers and directors as may be chosen in manner prescribed by the by-laws of the association, provided every member shall be entitled to cast at least one ballot in all elections and votes, that any member having had for six months an average of more than one hundred and not more than five hundred employees to whom he is bound to pay compensation under this act shall be entitled to cast two ballots, that each additional five hundred employees shall entitle such member to an additional ballot, and that no member shall be entitled to cast more than eight ballots.

SEC. 7. Safety Rules. Each association shall have power to prescribe and enforce reasonable rules for safety regulations on the premises of its members, and for that purpose, its inspectors shall have free access to all such premises during regular working hours.

SEC. 8. Premiums. Each association shall have power to determine the comparative premium rates for each occupation or risk insured by it and to prescribe rates of cash premiums sufficient to cover the current cost. Said premium rates shall prevail for the fiscal year of the association, but annually they may be changed at any time by the directors. The current cost herein specified shall be such an amount as is estimated to cover the expenses and claims or portions of claims payable within the same fiscal year within which they originated. Members of each association shall be required to pay yearly in advance cash premiums for current costs, and in addition thereto an amount in negotiable notes sufficient to maintain a reserve equal to that required of stock or commercial casualty companies by the general statutes for similar classes of risks. These notes shall be payable on the call of the treasurer of the association, as they may be required to meet estimated losses or expenses in excess of the current cost or to meet claims covering losses not payable within the same fiscal year within which the claim originated. The directors may, in their discretion, fix rates of interest on either notes or balances.

SEC. 9. Assessments. If an association is not possessed of funds sufficient for the payment of incurred losses and expenses, it shall make an assessment for the amount needed to pay such

losses and expenses, upon the members liable to assessment therefor, in proportion to their several liabilities.

SEC. 10. Investments. The funds of each association shall be invested by the directors in the same classes of securities and in the same manner in which the funds of domestic life insurance companies are by law required or permitted to be invested.

SEC. 11. By-laws and Regulations. Each association shall have power to determine the premiums, contingent liabilities, assessments, penalties, and dividends of its members, and to enforce, or administer the same without the limitations imposed upon corporations without capital stock by Section ninety of Chapter 194 of the public acts of 1903. It shall also have power to make and amend by-laws or regulations not inconsistent with its certificate of incorporation for the prompt, economical, and safe conduct of its affairs. All by-laws and regulations of each association shall be filed with the insurance commissioner, and shall be subject to his approval. If not disapproved by him, they shall go into effect thirty days after filing, or at such later date as may be indicated in the by-laws or regulations.

SEC. 12. Appeals to Superior Court. From any decision or order of the insurance commissioner affecting any association, such association shall have the right of appeal to the superior court for Hartford county.

GENERAL PROVISIONS.

SEC. 13. Acts Repealed. All acts and parts of acts inconsistent with any provision of this act are hereby repealed to the extent of such inconsistency.

SEC. 14. When Effective. So much of this act as directs the appointment of compensation commissioners and authorizes the formation of employers' mutual insurance associations shall take effect upon its passage; so much as empowers the commission to adopt and publish rules, procedure, and forms shall take effect October 1, 1913; all other provisions of this act shall take effect January 1, 1914.

Approved May 29, 1913.

STATE OF CONNECTICUT, }
OFFICE OF THE SECRETARY, } ss.

I hereby certify that the foregoing is a true copy of record in this office.

IN TESTIMONY WHEREOF, I have hereunto set my hand, and affixed the Seal of said State, at Hartford, this 3rd day of June, A. D., 1913.

ALBERT PHILLIPS,
Secretary.

Opinion of the Attorney-General Concerning the Construction of the Act

STATE OF CONNECTICUT

Attorney-General's Office

Hartford, Conn., October 23, 1913.

*Hon. Talcott H. Russell, Chairman Workmen's Compensation
Commission:*

DEAR SIR:

Your Commission has requested me to answer the following questions:

1. Does an employer of less than five persons come within the scope of Part B of the Workmen's Compensation Act?

2. Does the word "Commissioner," as used in the second line of Section 30 of said Act, refer to the Compensation Commissioner or to the Insurance Commissioner?

I answer your first question in the affirmative. Part B of the act includes *every contract of employment* made after the date of the law, and *every contract of employment* made before its date and continued in force thereafter. Such contracts shall be conclusively presumed to include a mutual agreement between employer and employee to accept Part B and be bound thereby, unless either employer or employee shall, by written stipulation in the contract, or by such other notice as is prescribed in Section 3 of Part B, indicates his refusal to accept the provisions of said Part B. But the employer of less than five persons,

who duly indicates his refusal to accept the provisions of Part B, is *ipso facto* removed from the operation of the Act, while the employer of five persons or more, not accepting Part B, is made liable to action for damages on account of personal injury to his employees in accordance with the provisions of Part A of the law; that it to say, "in an action to recover damages for personal injury sustained by an employee arising out of and in the course of his employment, or for death resulting from injury so sustained, it shall not be a defense; (a) That the injured employee was negligent; (b) that the injury was caused by the negligence of a fellow employee; (c) that the injured employee had assumed the risk of the injury."

The scope of Part A is limited as follows:

"The provisions of Section 1 of Part A of this Act shall not apply to actions to recover damages for personal injuries sustained by employees of any employer having regularly less than five employees, by casual employees, or by outworkers; nor shall the same provisions apply to actions against any employer who shall have accepted Part B of this act in the manner hereinafter prescribed."

There is no other limitation expressed in the Act. Therefore, every employer of workmen comes within the scope of Part B. But every employer of less than five persons will be likely to withdraw from it.

In answer to your second question, I am of the opinion that the word "Commissioner," as used in Section 30, refers to the "Compensation Commissioner." This is made clear by section 3 of Part B, which provides that the word "Commissioner" "shall mean that compensation commissioner, as constituted in this act, who has jurisdiction in the matter referred to in the context."

It is made the duty of the Commissioners to administer and execute the provisions of the Act covered by Part B, and they alone have the power to pass upon the solvency and financial ability of employers to pay directly to injured employees, or other beneficiaries, the compensation provided by the Act.

Respectfully submitted,

JOHN H. LIGHT,

Attorney-General.

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